



NATIONAL
ARCHIVES

APR 29 2019

Ed Martin
Phyllis Schlafly Center
Eagle Forum Education & Legal Defense Fund
7800 Bonhomme Ave.
St. Louis, MO 63105

Re: Freedom of Information Act Appeal NGC19-030A

Dear Mr. Martin:

This is in response to your letter dated April 8, 2019, in which you appeal the response received by the National Archives and Records Administration's (NARA) Archives 1 Reference Center, to your Freedom of Information Act (FOIA) request number RDT1R-19-19161. Your appeal was received in this office on April 15, 2019 and assigned tracking number NGC19-030A.

In a letter dated February 11, 2019, you requested "digital or hard copy material relating to the ratification, purported ratification, submission, relating to any actions taken by the legislatures of Illinois or Nevada received by your office from any agent of those respective states and any response by your office to the states of Nevada or Illinois relating to actions regarding the Equal Rights Amendments passed by Congress in 1972, and as purportedly extended in 1978." You go on to say: "This request also should be understood to include any guidance received by your office or requested by your office on how to handle any 'ratification' made after the original March 22, 1979 deadline through the June 30, 1982 deadline, and similar requests or guidance pertaining to any alleged 'ratification' of the ERA after the June 30, 1982 extension deadline."

In a letter dated February 27, 2019, Archives 1 Reference staff responded to your request, stating that they searched the General Records of the United States Government, Record Group 11, within the series Unratified Amendments, 1810-1985. They located four letters in the folder for Illinois and two letters in the folder for Nevada, along with voting records for both states, and provided instructions on how to order copies.

In a follow-up email dated March 4, 2019 to Archives 1 Reference staff, you clarified that you asked for "any documents your office or the National Archives Office issued or received regarding any actions taken by the states of Nevada and Illinois pertaining to the Equal Rights Amendment after June 1982, and any guidance your office gave to Illinois or Nevada or which you received from the Justice Department for such state actions taken after June 1982 that pertain to the Equal Rights Amendment." In an email dated March 21, 2018, Archives 1

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Reference staff responded and stated that documents dating after 1982 are still in the physical and legal custody of the Office of the Federal Register and suggested that you contact their legal department for more information.

In your April 8, 2019 appeal, you appealed the response you received from the Archives 1 Reference staff stating, "Archives 1 Reference Section offered materials that were not within the scope of my request. In a clarifying letter dated March 4, 2019, I gave additional guidance as to the documents being requested." You further explain that the "email response dated March 21, 2019 again failed to yield any of the documents requested. Instead, she recommended that we talk to the Legal Division of the Office of the Federal Register. However, her email did not seem to indicate that the documents the Office of the Federal Register would provide would be what we are requesting."

For your information, the records that NARA's Office of the Federal Register maintained relating to the Equal Rights Amendment (ERA) dating between 1972 to 1982 have been accessioned as permanent records into the legal custody of the National Archives. These records are located in Record Group 11, General Records of the United States Government, and are physically located at the National Archives Building in Washington, D.C. (Archives 1). ERA records dating after 1982 are still in the legal and physical custody of the Office of the Federal Register, which are considered NARA operational records and are handled by NARA's Office of General Counsel.

After carefully reviewing your original request, your appeal, contacting the Office of the Federal Register, and contacting the Archives 1 Reference Staff, I have determined that NARA interpreted your original request as wanting records dating between 1972 and 1982 and forwarded it to the Archives 1 Reference Section for processing. After receiving your clarification email, it was understood that you were not requesting the accessioned records. For this reason, Archives 1 staff suggested you contact the Legal Division of the Office of the Federal Register for more information.

I understand that you then submitted a new FOIA request to the Office of the Federal Register, which received it on April 8, 2019, and forwarded it to NARA's Office of General Counsel to be logged in as a request for NARA's operational records. Your request has been assigned *FOIAonline* tracking number NARA-NGC-2019-000414 and internal tracking number NGC19-277. Currently, staff are conducting a search of NARA's operational records, including at the Office of the Federal Register, for documents responsive to your request.

Since the Archives 1 Reference staff provided you the information within their holdings relating to your request, I am denying your appeal. However, you will be receiving a separate response to your subsequent April 8, 2019, FOIA request. This completes the processing of your appeal.

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

Your administrative remedies are now exhausted. If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B). You may seek judicial review in the U.S. District Court for the District of Columbia, the judicial district in which you reside or do business, or the judicial district where the records are located – in this instance, the U.S. District Court for the District of Columbia.

Sincerely,

A handwritten signature in cursive script that reads "Debra Steidel Wall".

DEBRA STEIDEL WALL
Deputy Archivist of the United States